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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/722,199

11/25/2003

Dwayne Nelson

IGT1P492C1/P000262-007

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01/12/2010

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EXAMINER

HARPER, TRAMAR YONG

ART UNIT

PAPER NUMBER

3714

NOTIFICATION DATE

DELIVERY MODE

01/12/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@wavsip.com

Office Action Summary	Application No. 10/722,199	Applicant(s) NELSON, DWAYNE	
	Examiner TRAMAR HARPER	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 91-94, 100-108, 110-113 and 133-146 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 91-94, 100-108, 110-113 and 133-146 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/28/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Examiner acknowledges receipt of amendments/arguments filed 08/28/09. The arguments set forth are addressed herein below. Claims 91-94, 100-108, 110-113, 133-146 remain pending, Claims 133-146 are newly added, Claims 1-90, 95-99, 109, & 114-132 have been cancelled, and Claims 91, 103, & 107 have been currently amended.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 91, 92, 93-94, 100, 103-105, 106-108, 110-111, 133-135, 136-139, & 142-143 rejected under 35 U.S.C. 103(a) as being unpatentable over Acres (US 6,254,483) in view of McArthur (GB 2 211 975 A).

Claims 91, 92, 94, 100, 103-104, 106-108, 110-111, 133-134, 136-139, & 142-143:
Acres teaches an electronic gaming unit for allowing a user to play a video gambling game. The electronic gaming unit comprising a display capable of generating color images, an input device allowing the user to make an input, a currency accepting mechanism for allowing the user to deposit currency, and a controller coupled to the above devices comprising a processor and memory, wherein the controller is programmed to accept currency from a player, to initiate/select a game and thereby cause video images representative of a gambling game to be displayed on the display

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unit of the gaming machine. The controller furthermore, being programmed to determine an outcome of a game after displaying a sequence of images and thereafter determining a payout that corresponds to the outcome (Abstract, Col. 1:25-35, 55-65, Col. 5:1-15, Col. 9:1-15, Fig. 2 (description thereof)).

Acres goes on to disclose electronic gaming machines interconnected by a computer network to a host computer and that selected configuration parameters are implemented at each machine. The game machines can be used in a standalone configuration (which means the EGM would imply having to have an internal clock/time generator to monitor time and its own controller) or network configuration and that such configuration parameters control the behavior of the electronic gaming machine (Col. 3:24-26, Col. 5:47-Col. 6:12, Col. 9:15-22). Acres discloses that the configuration workstation is programmed to monitor various gaming parameters such as the time the interconnected machines are played and that configuration parameters are implemented by downloading the data to respective EGM's or the configuration parameters are already installed ((implies external clock) Col. 6:5-8, Col. 6:63-Col. 7:10). Various game parameters examples that are changed are sound effects (Col. 3:17-20 encompasses volume), appearance (Col. 3:17-20 encompasses theme and brightness), a bonus game/period (Col. 8:20-48), payback percentage (Col. 8:1-15, Abstract). For example, different bonus periods are entered into the configuration workstation and at the beginning/start of each time period a computer command (time signal) is issued and in response to the command the EGM reconfigures itself, based on parameters already stored within the EGM (obtains appropriate configuration data),

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to change parameters such the payback/payout percentage or paytables of the EGM (Col. 8:1-13, see above). Also, Acres discloses initiating a bonus period during a certain time of the day and turning the bonus period off during another time of the day e.g. changing a frequency of occurrence of a bonus game respective of time (Col. 6:55-62).

Acres excludes explicitly the electronic gaming machine comprising a time generator that generates an internal time signal within the electronic gaming unit indicative of the time of day, wherein the gaming parameters are changed respective of the time signal. Acres also excludes changing a coin-in amount based on such a time signal. Acres, clearly states the scope of the invention is to change game machine aspects/behaviors with respect to time (Col. 3:18-20) in addition to other such variables. Acres also teaches that machine behaviors such as game speed, payback percentage, game appearance are changed in response to a signal from one of a number of variables, such as time (Abstract). Acres furthermore offers more support for the behaviors such as payback percentage modified based upon time (Col. 8:49-65). Acres clearly states that the game (main or bonus) is changed in accordance with a time signal and that many variables may be changed such as configuration parameters that control the behavior and appearance of the machine in response to time (Col. 2:19-30, Col. 3:15-20). Acres at least teaches changing configuration parameters that control the behavior and appearance of the machine based upon monitored time (see above). Acres states that it is desirable for the casino to set the cost to the player at a higher lever (cost interpreted as the minimum wager or coin-in

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amount, although not explicitly stated) at a higher level during high demand periods to increase casino revenue and a lower level at low demand periods to attract players (Col. 2:50-55). It is well known in the art for casinos to change the coin-in amount or wager amount on gaming machines for the purposes of Acres, above. However, in an analogous art, McArthur teaches changing various parameters of a gaming machine based on monitored time. The gaming machine of McArthur includes a time generator that generates an internal time signal within the electronic gaming unit indicative of the time of day, wherein the time signal alters the various parameters of the gaming machine. Such parameters include payments or coin-in amounts made by the player to the gaming machine. The gaming machine includes a clock to monitor the time. The gaming machine alter the coin-in amount based on the time of operation of the gaming machine (pg. 6:9-15, pg. 9:5-25, pg. 10:15-25, pg. 11:10-25, pg. 13:1-15). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the gaming machine of Acres with the internal time generator and the coin-in time based means of McArthur to add further variety to the gaming machine and provide means for making the gaming machine more stand alone. Such a modification would increase player excitement and interest in the game.

Claims 93, 105, & 135: Acres in view of McArthur discloses the above, but excludes the time generator receiving a time signal from a location external to the gaming unit. Acres implies a external time signal via the network configuration workstation.

McArthur clearly discloses an internal time generator/clock for issuing a time signal to

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the gaming machine (see above). However, applicant fails to disclose that having the time generator receiving a time signal from a location external to the gaming unit solves any stated problem, provides an advantage, or is for any particular purpose. Furthermore, based on applicant's specification whether the time signal is internal or external it still performs the same function. Moreover, it appears that the internal time generator with time signal, or applicant's invention, would perform the same function of providing a time signal for changing/altering one or more gaming parameters of a gaming machine. Therefore, it would have been prima facie obvious to modify Acres in view of McArthur to obtain the invention as specified in claims 93, 105, & 135 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Acres in view of McArthur.

Claims 144-146 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres (US 6,254,483) in view of McArthur (GB 2 211 975 A) in further view of Yasukawa (JP 10-263190 A).

Claims 144-146: Acres in view of McArthur discloses the above, but excludes changing a maintenance schedule based on a time signal of the gaming machine. However, Yasukawa teaches that it is known in the art to schedule service periods and none service hours. Furthermore, it is well known in the art to schedule maintenance schedules during no busy or peak hours. When considering that Acres in view of McArthur clearly illustrated changing game machine parameters based on time, it would have been obvious to one of ordinary skill in the art to change a maintenance schedule (maintenance schedule taught by Yasukawa) based on a time

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signal to accommodate changes in peak hours of a casino establishment. Such a modification, makes the gaming establishment more efficient.

Claims 101-102, 112-113, & 140-141 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres (US 6,254,483) in view of McArthur (GB 2 211 975 A) in further view of Muira (US 6,354,943).

Claims 101-102, 112-113, & 140-141: Acres in view of McArthur discloses all of the instant application, as taught above, but lacks in specifically teaching that the controller replaces at least one of the available gambling games in response to the time signal and specifically stating replacing a first bonus game for a second bonus game. Instead Acres clearly states that the game (main or bonus) is changed in accordance with a time signal and that many variables may be changed such as configuration parameters that control the behavior and appearance of the machine in response to time (Col. 2:19-30, Col. 3:15-20). Furthermore Acres teaches providing multiple bonus games and/or overlapping bonus games e.g. at least two bonus games with different bonus pools, which indicates that different bonus payouts (Col. 8:44-49). Acres is clearly drawn to changing configuration parameters that control the behavior and appearance of the machine respective of time. With respect to changing the bonus game with respect to time see above where Acres discloses that altering the main or bonus games require the same steps and are therefore analogous. The above is motivation to one skilled in the art to seek a reference that changes the at least the bonus game with another available game in response to time. In an analogous game machine to Miura, therein, Miura discloses changing available games with respect to a

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time signal (Abstract, Col. 5:55-Col. 6:55). Miura furthermore discloses changing the volume and brightness of a gaming machine respective of time (Col. 8:10-20). It would be obvious to one of ordinary skill in the art to change the games in Acres with available games (main/bonus) with respect to a time signal as taught in Miura using the above motivation that the game may be changed.

Response to Arguments

Applicant's arguments filed 08/28/09 have been fully considered but they are not persuasive.

Applicant argues that Acres fails to disclose a player selecting a game, however given the broadest interpretation of the claim limitation if a player inserts a coin-in amount to initiate the game the player has selected the game for play. In regards to a time generator for produce a time signal respective of time the examiner has provided the above rejection of Acres in view of McAuthur to meet such limitations. McAuthur clearly discloses using a internal clock to alter a gaming parameter of the gaming machine. In regards to the maintenance schedule Acres in view of McAuthur in view of Yasukawa meets the limitation. In summary, all references disclose at least changing parameters respective of monitored time. McAuthur provides the means of using an internal clock within the gaming machine to provide time signals to change such parameters. In regards to frequency of occurrence of a bonus game, Acres in view of McAuthur at least disclose initiating a bonus game during a certain time frame and thereafter not allowing the bonus game to be played (see above with respect to Acres) e.g. the bonus frequency changes from one game being played during a certain time

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frame to no bonus games being played. Please note that Chadwick (GB 2 201 279) teaches changing at least a payout of a gaming machine respective of a time signal from a real-time clock within the gaming machine (Abstract). Please note that Muira (US 6,354,943) teaches changing the volume and brightness of a gaming machine respective of time (Col. 8:10-20). Please note that Beaulieu (US 2003/0083122) teaches selecting on one gaming machine a game selected from a plurality of games.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Chadwick (GB 2 201 279) teaches changing a payout of a gaming machine respective of a time signal.

Beaulieu (US 2003/0083122) teaches selecting on one gaming machine a game selected from a plurality of games.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRAMAR HARPER whose telephone number is (571)272-6177. The examiner can normally be reached on 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ronald Laneau/
Primary Examiner
Art Unit 3714

TH

12/05/09